

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

ED BUTOWSKY,

Plaintiff,

V.

CIVIL ACTION NO.

DAVID FOLKENFLIK, ET. AL.,

4:18-CV-00442-ALM

Defendants.

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AGREED MOTION TO MODIFY SCHEDULING ORDER

NOW COME Plaintiff Ed Butowsky (“Plaintiff”) and Defendants National Public Radio, Inc. (“NPR”), David Folkenflik, Edith Chapin, Leslie Cook, and Pallavi Gogoi (collectively “Defendants”), and file this Agreed Motion to Modify Scheduling Order, as follows:

1. On March 21, 2019, this Court entered a Scheduling Order (Dkt. # 57), which set forth various deadlines up to and including a Final Pretrial Conference on January 31, 2020. Pending before the Court at that time were Defendants' Motion to Dismiss for Failure to State a Claim, filed on October 16, 2018 (Dkt. # 25) and Plaintiff's Motion for Leave to Amend Complaint, filed on March 15, 2019 (Dkt. 53). On April 17, 2019, the Magistrate Judge issued a Report and Recommendation, recommending that Defendants' Motion to Dismiss be denied (Dkt. # 58), and on August 7, 2019, the Court adopted that Report and Recommendation and denied the Defendants' Motion to Dismiss, and additionally granted the Plaintiff's Motion for Leave to Amend his Complaint (Dkt. # 65).

2. The parties have exchanged written discovery, but have mutually agreed that in light of the number of witnesses who must be deposed, several of whom are non-parties outside the control of any party, additional time is necessary for completion of discovery, the deadline to file dispositive motions, and trial. In addition, Plaintiff wishes to further amend his pleadings, based on events which occurred after the current Scheduling Order's deadline to amend pleadings. Accordingly, the parties jointly request that portions of the March 21, 2019 Scheduling Order be modified, as set forth below.

3. The parties jointly request that the following deadlines set forth in the current Scheduling Order be modified as follows:

- A. Deadline for parties to file amended pleadings: September 30, 2019.
- B. Deadline for completion of discovery: April 30, 2020.
- C. Deadline to file Motions to Dismiss, Motions for Summary Judgment, or other dispositive motions: June 1, 2020.
- D. Date by which the parties shall notify the Court of the agreed-upon mediator, or alternatively request that the Court select a mediator: July 27, 2020.
- E. Deadline to (i) provide notice of intent to offer certified records (ii) confer concerning preparation of Pretrial Order and Proposed Jury Instructions and Verdict Form and (iii) submit video deposition designations: August 10, 2020.
- F. Deadline to (i) complete mediation (ii) file Motions in Limine and (III) file Joint Final Pretrial Order: August 31, 2020.
- G. Deadline to (i) file Responses to Motions in Limine (ii) file objections to witnesses, deposition extracts, and exhibits listed in the Pretrial Order and (iii) file Proposed Jury Instructions and Verdict Form: September 18, 2020.

H. Final Pretrial Conference: October 5, 2020, or as near to that date as is possible given the Court's calendar.

4. In addition to these scheduling modifications, the parties jointly request that the provisions of Rule 15 of the Federal Rules of Civil Procedure be modified to provide that Plaintiff may amend his Complaint one further time as a matter of right, providing he does so on or before September 30, 2019, and that Defendants' response to Plaintiff's Amended Complaint be extended to October 30, 2019. The parties further jointly request that Defendants' deadline to respond to Plaintiff's current Amended Complaint (Dkt. # 53) be extended until October 30, 2019, with the further provision that if Plaintiff amends his Complaint again prior to that date, the current Amended Complaint will be superseded by the newly Amended Complaint, and Defendants shall respond only to the newly amended Complaint.

5. Except as set forth in this Agreed Motion, all other deadlines set forth in the Court's March 21, 2019 Scheduling Order (Dkt. # 57) shall remain unchanged.

WHEREFORE, Plaintiff and all Defendants request that the Scheduling Order be modified as requested herein.

Respectfully submitted,

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